

DETAILED ACTION

Applicants have cancelled claims in the amendment filed on April 24, 2010. The claims 5-8 and 25-34 are considered allowable.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Chalin Smith on May 5, 2010.

2. The application has been amended as follows:

Amend the phrase "a solution of Rizatriptan benzoate is in an alcohol" so that it reads "a solution of Rizatriptan benzoate in an alcohol" in claim 25.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The invention relates to a crystalline polymorph Form B of N, N-dimethyl-5-(1H-1,2,4-triazol-1-ylmethyl)-1H-indole-3-ethanamine benzoate wherein the X-ray powder

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diffraction pattern is as defined in claim 5, 6, 7 or 8. The closest prior art is Sandquiet, et al. (GB 2315673A). The above crystalline polymorph of the said compound is neither taught nor suggested by the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawquia Young whose telephone number is 571-272-9043. The examiner can normally be reached on 7:00 AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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/Shawquia Young/

Examiner, Art Unit 1626

/Rebecca L Anderson/

Primary Examiner, Art Unit 1626